Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
Usage of the Public Switched Network by Information Service Providers and Internet Access Providers	)	CC Docket No. 96-263

Comments of Communications Workers of America

Dated: January 27, 1997

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I. Introduction and Summary

In passing the Telecommunications Act of 1996 (the "Act"), Congress established a competitive framework to speed deployment of new telecommunications technologies, to stimulate investment in telecommunications facilities, to expand access to advanced telecommunications services through lower prices, to preserve and expand universal affordable access to quality telecommunications services, and to promote the growth of good jobs in the industry.

The Commission, in its trilogy of actions on Interconnection, Universal Service, and Access Reform, should adopt rules to ensure that these goals are realized. Commission decisions in these proceedings, taken together, should advance the Act's goals of quality, affordable universal service, network investment, and growth of good jobs, all within a framework of competitive neutrality.

The Commission noted in its Notice of Proposed Rulemaking ("NPRM") that changes in the telecommunications market wrought by the 1996 Act necessitate a review of access charges. Competitive policies adopted in parallel rulemakings serve to destabilize the system of access charges previously established to subsidize universal service. Furthermore, the current access charge system fails to meet the Act's mandate for "explicit" universal service support."[1]

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[1] Federal Communications Commission, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, Access Charge Reform (CC Docket No. 96-262), Price Cap Performance Review (CC Docket No. 94-1), Transport Rate Structure and Pricing (CC Docket No. 91-213), Usage of the Public Switched Network by Information Service and Internet Access Providers (CC Docket No. 96-263), Dec. 23, 1996, (hereafter "NPRM"), Para. 5

In this proceeding, the Commission should adopt rules that acknowledge that access charges have historically served the dual purpose of 1) providing a method for local exchange carriers (LECs) to recover the costs of exchange access services, and 2) promoting the public policy goal of universal service.[2] The challenge before the Commission is to reform access charges in a manner that is competitively neutral and that promotes universal service.

CWA believes that the these goals can best be realized through the following approach to access reform:

1. Regulatory Parity and Pricing Flexibility. The Commission should adopt rules that provide incumbent local exchange carriers greater flexibility to set prices for access services as markets move to competition. This will ensure that incumbent LECs can compete on an equal basis with competitive local exchange carriers for access services. The "market-based approach" outlined in the NPRM provides one possible framework for achieving regulatory parity and pricing flexibility as local exchange markets move from regulated monopoly to full competition.

2. Transitional Support Mechanism to Preserve Universal Service. To minimize disruption to universal service and to employment, the Commission should adopt rules that provide a transition period and methodology to move universal service from implicit to explicit support and to enable incumbent local exchange carriers to recover past investments made to meet the public policy goal of universal service.

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[2] NPRM, Para 22-23.

3. Cost Recovery from all Users. The original intent of the Enhanced Services Provider (ESP) exemption to stimulate investment in the networks that support the Internet has been achieved. ESPs have grown in market value through the public subsidies they have received. The Commission should end the ESP exemption and adopt rules to ensure that Enhanced Service Providers (ESPs) pay rates that recover the costs that LECs incur to provide ESP's local access.

II. The Commission Should Adopt Rules that Provider Greater Pricing Flexibility to Incumbent Local Exchange Carriers as Competition Increases in the Local Exchange

Technological and market forces have already created a highly competitive market for access services provided to high-revenue customers. This competition will accelerate under the terms of the Interconnection Order as the price of access becomes available at economic cost from competing local exchange carriers using unbundled network elements. As local competition intensifies, above-cost pricing of access services will become unsustainable and will disappear.

In such a competitive environment, the Commission must ensure that asymmetrical regulation does not provide competitive advantages to some carriers but not to others. Under the current access rules, competitive LECs are free to negotiate volume and term discounts while incumbent LECs must charge the same price for access to all customers. Without this pricing flexibility, incumbent LECs cannot effectively compete for high-revenue customers. As more and more high-revenue customers shift their business to competitive LECs, incumbents with carrier-of-last resort and other universal service obligations, will be required to spread their costs across a diminishing revenue base. This in turn will increase pressure on incumbent LECs to raise rates or to cut variable costs, including the costs of maintenance, capital investment, and labor. The result will be a decline in service quality in the public switched network and delay in network investment in new facilities, increased bandwidth, and new services.

Therefore, the Commission should adopt rules to ensure that as competition increases in the local exchange, incumbent LECs have pricing flexibility, including the ability to negotiate term and volume discounts, contract tariffs, and respond to individual RFPs. This will ensure that incumbent LECs can compete with competitive local exchange carriers for access services. CWA supports rules that provide increasing pricing flexibility as local exchange competition increases.

III. The Commission Should Mandate a Transitional Recovery Mechanism to Support Universal Service.

Federal access charges provide more than $10 billion annually in implicit subsidies to support affordable universal service in the local exchange. These subsidies are a direct result of public policy directives designed to maintain affordable basic service for all customers.

Such subsidies are not sustainable in competitive markets as the price of access becomes available at cost from competing local exchange carriers. Moreover, the 1996 Act for the first time mandates universal service as a public policy goal and recognizes the need for adequate financing, requiring that universal service support must be explicit.

The Commission should adopt a transition mechanism to address the loss of $10 billion in implicit universal service support subsidies. Such a transition mechanism is necessary to minimize disruption to universal service and to employment. A sudden loss of such magnitude in the local exchange would have significant impact on incumbent LECs. Providing universal service without the historic subsidy from access charges will increase pressure to raise local rates and to reduce variable costs, including maintenance, repair, employment, and investment expense. The result, as noted in our earlier discussion, would lead to the unintended consequence of higher rates, deteriorating service quality, and fewer dollars in network investment.

Since competitive alternatives will largely be based on resale, customers of resellers will continue to depend on a high-quality public switched network for telecommunications services. Therefore, it is in the interest of all consumers of telecommunications services to ensure that a transition mechanism is in place to block deterioration of service quality.

Furthermore, a transition mechanism is necessary to enable incumbent LECs to recover embedded costs incurred to meet public policy obligations. Past regulatory decisions 1) over-allocated costs to the interstate jurisdiction through the separations process and 2) maintained long depreciation schedules in order to keep local rates low. The Commission cannot simply ignore the impact of these decisions as it mandates economic cost-based pricing. The Commission should adopt a transition mechanism to support universal service as local markets move from regulated monopoly to economic-cost based pricing.

The Commission, in the Interconnection Order, left open the possibility that incumbent LECs would be afforded an opportunity to recover these embedded costs through a "mechanism separate from rates for interconnection and unbundled network elements." The Commission stated that the access reform proceeding was the appropriate place to accomplish this goal.[3] We concur.

IV. The Commission Should Adopt Rules to Ensure that Enhanced Service Providers (ESPs) Pay Rates that Recover their Costs for Local Access

The Commission tentatively concludes that Enhanced Service Providers should not be required to pay interstate access charges. CWA disagrees.

Past Commission action to exclude Enhanced Service Providers from payment of access charges served to nurture the development and growth of this dynamic industry. However, today many ESPs have matured into firms of substantial size and stability and should be subject to the same regulatory requirements as other purchasers of local access. By 1995, on-line Enhanced Services

[3] In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 (CC Docket No. 96-98), ("Interconnection Order"), Para 739.

Providers had grown to become a $1.8 billion industry. Revenues are expected to multiply ten-fold over the next five years, to $17 billion by the year 2000.[4]

The growth in traffic over the Internet is already causing congestion on the public switched network. Further growth in Internet traffic will require large investments to increase bandwidth, upgrade switches, and to reconfigure the network. Today, subsidies flow to support Internet traffic. Pacific Bell estimates that Internet service providers pay only about 12 percent what long distance companies pay for access. The Commission should end the ESP exemption and adopt rules to ensure that ESPs pay rates that recover the costs of local access.

V. Conclusion

In the trilogy of Interconnection, Universal Service, and Access Reform proceedings, the Commission has the responsibility to ensure that its rules are competitively neutral, promote network investment, lead to growth of good jobs, and preserve and promote the goals of affordable universal quality service.

In this proceeding, the Commission should adopt rules that provide a transition mechanism to ensure that incumbent LECs that have incurred costs to further universal service goals have an opportunity to recover those costs. Furthermore, the Commission should adopt rules that promote regulatory parity and pricing flexibility as competition increases in the local exchange.

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[4] Morgan Stanley, The Internet Report, December 1995, p. 1-12.

Finally, the Commission should ensure that Enhanced Service Providers pay the cost of access services.

Respectfully submitted,

Communications Workers of America
Morton Bahr
President

January 27, 1997

Attachment A

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